

Carlos J. Cuevas, Esq.
Attorney for Plaintiff
BTMI, Ltd.
1250 Central Park Avenue
Yonkers, New York 10704
Carlos J. Cuevas

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BTMI, Ltd.,

Plaintiff,

-against-

Civ. No.

MYUNG S. CHOI,

Defendant.

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COMPLAINT

BTMI, Ltd. by its attorney, Carlos J. Cuevas, Esq., for its Complaint against Myung S.

Choi respectfully alleges:

PARTIES, JURISDICTION AND VENUE

1. The Plaintiff, BTMI, Ltd., is a corporation organized under the laws of the State of New York. The Plaintiff has its principal place of business at 1045 Fifth Avenue, New York, New York.
2. The Defendant, Myung S. Choi, is an individual domiciled and residing at 596 Grand Avenue, Leonia, New Jersey.
3. This court has jurisdiction over this matter under 28 U.S.C. § 1332(a)(1) because there is

complete diversity of citizenship between the plaintiff and defendant and more than \$75,000.00, exclusive of interest and costs, is in dispute in this matter.

4. Personal jurisdiction over the Defendant is proper because the Defendant transacts business within New York State.
5. Pursuant to 28 U.S.C. § 1391(b)(2), venue is proper in this district.

COUNT I

6. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 5 of this Complaint.
7. On or about April 20, 2016 the Plaintiff and New Kang Suh Corp. executed a document entitled Third Amendment and Extension Agreement, Dated April 1, 2016 to Indenture of Lease signed on June 5, 1998 between KKJB Corp. as Tenant and BTMI LTD. as Landlord and assigned by KKJB Corp. to New Kang Suh Corp. by Second Assignment and Assumption of Lease dated March, 2011 (“Third Lease Extension”). (Exhibit A).
8. The Defendant is the President of New Kang Suh Corp. (Exhibit A).
9. In order to induce the Plaintiff to enter into the Third Lease Extension with New Kang Suh Corp, the Defendant, executed a personal guaranty concerning New Kang Suh Corp.’s monetary obligations under the Third Lease Extension. (Exhibit A, ¶ 5).
10. On April 12, 2019 New Kang Suh Corp. filed for Chapter 11, *In re New Kang Suh Corp.*, Case No. 19-22793(RDD), United States Bankruptcy Court for the Southern District of New York.
11. The following are the New Kang Su Corp.’s pre-petition arrears:

JANUARY 2019

Base Rent	19,188.83
CAM	5,589.73
Sub Total	24,778.56
Paid	-24,548.23
Sub Total	430.33
Late Fee @.5%	21.52
TOTAL DUE	\$451.85

FEBRUARY 2019

Base Rent	19,188.83
CAM	5,589.73
Sub Total	24,778.56
Late Fee @ 5%	1,238.93
TOTAL DUE	\$26,017.49

MARCH 2019

Base Rent	19,188.83
CAM	5,589.73
Sub Total	25,356.88
Late Fee @ 5%	1,238.93
TOTAL DUE	\$26,017.49

APRIL 2019

Base Rent	19,764.50
CAM	5,589.73
Sub Total	25,354.23
Late Fee @ 5%	1,267.71
TOTAL DUE	\$26,621.94

The Debtor filed for Chapter 11 on April 12, 2019. The pro-rated April 2019 pre-petition April 2019 claim is \$10,648.77.

Water charges	40,002.44
Legal fees	750.00

PRE-PETITION CLAIM \$103,888.00

12. The following is the Plaintiff's post-petition claim against New Kang Suh Corp.:

April 2019 rent	\$15,973.16
May 2019 Base Rent	19,764.50
CAM	5,589.73
Sub Total	25,354.23
Late Fee @ 5%	1,267.71
TOTAL DUE	26,621.94
June 2019 Base Rent	19,764.50
CAM	5,589.73
Sub Total	25,354.23

POST PETITION CLAIM \$67,949.44 as of June 6, 2019.

13. New Kang Suh Corp. has not paid the June 2019 rent.
14. The Plaintiff has requested that New Kang Suh Corp. pay its post-petition rent. New Kang Suh Corp. has not paid any post petition rent to the Plaintiff.
15. Pursuant to the personal guaranty, the Plaintiff is owed by the Defendant at least \$171,837.44.
16. By reason of the foregoing, the Plaintiff is entitled to a judgment against the Defendant in the amount of at least \$171,837.44, plus interest.

COUNT II

17. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 16 of this Complaint.
18. Pursuant to the Third Lease Extension, the Plaintiff is entitled to be reimbursed for reasonable legal fees and costs for the prosecution of this civil action.
19. By reason of the foregoing, the Plaintiff is entitled to a judgment against the Defendant awarding it reasonable legal fees and costs for the prosecution of this civil action, plus interest.

WHEREFORE, the Plaintiff demands judgment against the Defendant as follows:

- a) As to Count I, a judgment in the amount of at least \$171,837.44, plus interest;
- b) As to Count II, a judgment awarding the Plaintiff reasonable legal fees and costs, plus interest;
- c) such other and further relief as this Court deems just and equitable.

Dated: Yonkers, New York
June 12, 2019

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Attorney for Plaintiff
BTMI, LTD.

By: /s/ Carlos J. Cuevas
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